

6955--A

I N S E N A T E

April 16, 2012

Introduced by Sen. ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the penal law, in relation to creating a crime of retail sales receipt fraud or universal product code fraud

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding three new
2 sections 393-e, 393-f and 393-g to read as follows:
3 S 393-E. RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN
4 THE SECOND DEGREE. A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR
5 UNIVERSAL PRODUCT CODE FRAUD IN THE SECOND DEGREE WHEN, WITH INTENT TO
6 DECEIVE OR DEFRAUD A PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF
7 GOODS OR SERVICES, HE OR SHE USES, TRANSFERS, MAKES, ALTERS, COUNTER-
8 FEITS OR REPRODUCES A RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT CODE
9 KNOWING SUCH TO BE COUNTERFEIT.
10 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE
11 SECOND DEGREE IS A CLASS A MISDEMEANOR.
12 S 393-F. RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN
13 THE FIRST DEGREE. A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR
14 UNIVERSAL PRODUCT CODE FRAUD IN THE FIRST DEGREE WHEN, WITH INTENT TO
15 DECEIVE OR DEFRAUD A PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF
16 GOODS OR SERVICES, HE OR SHE USES, TRANSFERS, MAKES, ALTERS, COUNTER-
17 FEITS OR REPRODUCES FIFTEEN OR MORE RETAIL SALES RECEIPTS OR UNIVERSAL
18 PRODUCT CODES OR COMBINATION THEREOF KNOWING SUCH TO BE COUNTERFEIT.
19 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE
20 FIRST DEGREE IS A CLASS E FELONY.
21 S 393-G. POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL
22 PRODUCT CODE MANUFACTURING DEVICE. A PERSON IS GUILTY OF POSSESSION OF
23 A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT CODE MANUFACTUR-
24 ING DEVICE WHEN, WITH INTENT TO DECEIVE OR DEFRAUD A PERSON OR PERSON
25 ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES, HE OR SHE POSSESSES A

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 DEVICE THAT MANUFACTURES FRAUDULENT RETAIL SALES RECEIPTS OR UNIVERSAL
2 PRODUCT CODE LABELS.

3 POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT
4 CODE MANUFACTURING DEVICE IS A CLASS E FELONY.

5 S 2. The penal law is amended by adding three new sections 165.80,
6 165.81 and 165.82 to read as follows:

7 S 165.80 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN
8 THE SECOND DEGREE.

9 A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT
10 CODE FRAUD IN THE SECOND DEGREE WHEN, WITH INTENT TO DECEIVE OR DEFRAUD
11 A PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES, HE
12 OR SHE USES, TRANSFERS, MAKES, ALTERS, COUNTERFEITS OR REPRODUCES A
13 RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT CODE KNOWING SUCH TO BE COUN-
14 TERFEIT.

15 (1) THE TERM "RETAIL SALES RECEIPT" SHALL MEAN ANY HANDWRITTEN OR
16 MACHINE OR COMPUTER PRODUCED DOCUMENT AS PROPERLY ISSUED BY A RETAILER
17 TO ACKNOWLEDGE PAYMENT RECEIVED BY A CUSTOMER.

18 (2) THE TERM "UNIFORM PRODUCT CODE LABEL" SHALL MEAN ANY BAR CODE OR
19 OTHER CODING SYSTEM DESIGNED TO BE READ BY COMPUTER WHICH CONTAINS PRIC-
20 ING INFORMATION AND OTHER RELATED INFORMATION USED BY A RETAILER AND
21 READ BY A COMPUTER AT POINT OF PURCHASE FOR PURPOSES OF ESTABLISHING THE
22 SALE PRICE OF A GOOD.

23 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE
24 SECOND DEGREE IS A CLASS A MISDEMEANOR.

25 S 165.81 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN
26 THE FIRST DEGREE.

27 A PERSON IS GUILTY OF RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT
28 CODE FRAUD IN THE FIRST DEGREE WHEN, WITH INTENT TO DECEIVE OR DEFRAUD A
29 PERSON OR PERSONS ENGAGED IN THE RETAIL SALE OF GOODS OR SERVICES, HE OR
30 SHE USES, TRANSFERS, MAKES, ALTERS, COUNTERFEITS OR REPRODUCES FIFTEEN
31 OR MORE RETAIL SALES RECEIPTS OR UNIVERSAL PRODUCT CODES OR COMBINATION
32 THEREOF KNOWING SUCH TO BE COUNTERFEIT.

33 (1) THE TERM "RETAIL SALES RECEIPT" SHALL MEAN ANY HANDWRITTEN OR
34 MACHINE OR COMPUTER PRODUCED DOCUMENT AS PROPERLY ISSUED BY A RETAILER
35 TO ACKNOWLEDGE PAYMENT RECEIVED BY A CUSTOMER.

36 (2) THE TERM "UNIFORM PRODUCT CODE LABEL" SHALL MEAN ANY BAR CODE OR
37 OTHER CODING SYSTEM DESIGNED TO BE READ BY COMPUTER WHICH CONTAINS PRIC-
38 ING INFORMATION AND OTHER RELATED INFORMATION USED BY A RETAILER AND
39 READ BY A COMPUTER AT POINT OF PURCHASE FOR PURPOSES OF ESTABLISHING THE
40 SALE PRICE OF A GOOD.

41 RETAIL SALES RECEIPT FRAUD OR UNIVERSAL PRODUCT CODE FRAUD IN THE
42 FIRST DEGREE IS A CLASS E FELONY.

43 S 165.82 POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL
44 PRODUCT CODE MANUFACTURING DEVICE.

45 A PERSON IS GUILTY OF POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT
46 OR UNIVERSAL PRODUCT CODE MANUFACTURING DEVICE WHEN, WITH INTENT TO
47 DECEIVE OR DEFRAUD A PERSON OR PERSON ENGAGED IN THE RETAIL SALE OF
48 GOODS OR SERVICES, HE OR SHE POSSESSES A DEVICE THAT MANUFACTURES FRAU-
49 DULENT RETAIL SALES RECEIPTS OR UNIVERSAL PRODUCT CODE LABELS.

50 (1) THE TERM "RETAIL SALES RECEIPT" SHALL MEAN ANY HANDWRITTEN OR
51 MACHINE OR COMPUTER PRODUCED DOCUMENT AS PROPERLY ISSUED BY A RETAILER
52 TO ACKNOWLEDGE PAYMENT RECEIVED BY A CUSTOMER.

53 (2) THE TERM "UNIFORM PRODUCT CODE LABEL" SHALL MEAN ANY BAR CODE OR
54 OTHER CODING SYSTEM DESIGNED TO BE READ BY COMPUTER WHICH CONTAINS PRIC-
55 ING INFORMATION AND OTHER RELATED INFORMATION USED BY A RETAILER AND

1 READ BY A COMPUTER AT POINT OF PURCHASE FOR PURPOSES OF ESTABLISHING THE
2 SALE PRICE OF A GOOD.

3 POSSESSION OF A FRAUDULENT RETAIL SALES RECEIPT OR UNIVERSAL PRODUCT
4 CODE MANUFACTURING DEVICE IS A CLASS E FELONY.

5 S 3. This act shall take effect on the first of November next succeed-
6 ing the date on which it shall have become a law.